

**CALIFORNIA COASTAL COMMISSION**

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**W 23a & 23b**

Filed: 11/27/01  
49<sup>th</sup> Day: 1/15/01  
180<sup>th</sup> Day: 5/26/01  
Extended Time: 7/09/01  
Staff: PE-LB  
Staff Report: 5/24/01  
Hearing Date: 6/12/01

**REGULAR CALENDAR AND DE NOVO HEARING ON APPEAL  
STAFF REPORT AND RECOMMENDATION**

**APPLICATION NUMBER:** 5-00-400 (PLAYA CAPITAL); A-5-PLV-00-417 (PLAYA CAPITAL)

**APPLICANT:** Playa Capital Company LLC

**AGENTS:** Catherine Tyrrell, Playa Capital  
Wayne Smith, Psomas Associates

**PROJECT LOCATION:** Culver Boulevard, and adjacent to and south of existing Lincoln/Culver ramp, Area C Playa Vista, Los Angeles County

**PROJECT DESCRIPTION:** Construct modified and new ramp connections between Lincoln and Culver Boulevards, widen the southerly half of Culver Boulevard between Lincoln Boulevard and the Marina Freeway to provide an additional eastbound lane, widen and improve grade level connections between Culver Boulevard and Marina Freeway, and install drainage, lighting and landscaping. The project will add 38 to 41 feet of pavement to the 34 to 37 foot wide road, and additional area to the connections to the Marina Freeway, where the finished road may be as much as 104 feet wide. The project will require 23,000 cubic yards cut and fill.

**PROPOSED CHANGE IN DESCRIPTION DE NOVO:** Construct 1.1 acre extended detention/biofiltration basin and restoration area within curve of ramp loop, to capture and treat storm water run off from the widened roads, through detention-induced settling and biofiltration before it drains to Ballona Creek; install additional landscaping along Culver Boulevard and along recently widened portions of Lincoln Boulevard rights-of-way.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission **DENY** the proposed development because there is a dispute concerning the applicant's ability to construct those portions of the project that are located on property held by the US Trust of California in trust for the state. Secondly, a new detailed survey of plants and soils located in the area to be filled by the ramp indicates that the proposed construction will result in the fill of approximately 0.2 acres of wetland. The loop ramp must be denied because the proposed fill is not consistent with Section 30233 of the Coastal Act.

**LOCAL APPROVALS:** City of Los Angeles CDP 00-03B  
Playa Vista Project, Phase I EIR, 1993, as amended.

**Staff Note:** The Commission previously held a hearing on this matter at the April 2001 meeting. The hearing was continued to allow staff to further investigate allegations that the proposed project will require fill of wetlands. After a site visit, and collection and analysis of sampling data, Commission staff has determined that the proposed loop ramp connecting Culver Boulevard to Lincoln would require fill of wetlands. Therefore, staff is recommending denial of the proposed loop ramp because it is a road improvement associated with new development and thus is not an allowable use of wetlands. Other portions of the project, including widening of Culver Boulevard, do not require fill of wetlands. However, at this time, the Commission recommends denial of all the development proposed in this project, because the State Controller asserts that the applicant does not have the right to use the property for the proposed project. U.S. Trust Company, as Trustee, owns the project site on behalf of the State of California. The applicant disagrees with the Controller and alleges that it does have the right to use the property for the project. The Coastal Commission cannot resolve this dispute and therefore staff recommends denial of the proposed project.

## EXECUTIVE SUMMARY

As described below, the proposed road improvement is a required mitigation measure for development located outside the Coastal Zone, the first phase of a much larger project. The 280 acre first phase consists of two tracts (See Table I, below). The City approved these tracts in 1995. Most of the first phase development including all Phase I residential, commercial and office structures is located outside the Coastal Zone, in an area known as "Area D." Some road and drainage facilities to serve Playa Vista Phase I are located within the Coastal Zone. These include: (a) this proposed widening of Culver Boulevard, (b) the extension of Playa Vista Drive (Bay Street) from Jefferson to Culver Boulevard (application expected), (c) widening along Lincoln Boulevard (approved as 5-99-139), (d) the construction of 26.1 acre freshwater marsh restoration, 5-91-463(Maguire Thomas), and (e) other minor road widening and intersection expansion, including a changed intersection configuration at Culver and Jefferson within Area B. In the City's approval of residential and commercial units outside the Coastal Zone, the City required construction of several road expansion projects, including this one. The standard of review for this road expansion project is whether or not it is consistent with Chapter 3 of the Coastal Act. The Commission does not have jurisdiction to review impacts of the Phase I development occurring outside the Coastal Zone.

The Playa Vista Project has long been controversial because of its size and intensity and because of the presence of wetlands. The Department of Fish and Game has identified 196.53 acres of wetlands on the Playa Vista property, including the 3.47 acres identified by the Corps in Area D. (Area D is located outside the Coastal Zone.) Because the historic wetland was much larger than the presently identified wetland, the extent of the wetlands is also subject to controversy. In 1984, the Department of Fish and Game identified 2.5 acres of wetland in Area C (the northeast quadrant of Playa Vista.) This road widening is proposed in the southwest corner of Area C and along the entire south side of Culver Boulevard, which bisects Area C.

Due to the presence of a small (2.5-acre) mapped wetland on the north side of Area C, the public has also raised issues whether the road expansion and ramp building could impact that wetland and/or other areas that are not mapped wetlands. The proposed project does not fill or drain into any of the wetland areas on the project site that were previously mapped by the California Department of Fish and Game in 1984. However, the proposed new ramp from northbound Lincoln to Culver Boulevard impacts a 0.19 acre area that is vegetated with a mixture of mulefat and other plants, raising concerns with the wetland impacts of this project. Opponents have indicated that they believe that the Department of Fish and Game should have determined that this area is a wetland. Mulefat is a wetland facultative plant – it is found in wetlands and marshes but also in other areas subject to occasional flooding. An initial cursory visit seemed to indicate that the area was not a wetland. At its April 2001 hearing, the Commission received testimony regarding the possible presence of wetlands in Area C that were not identified when Fish and Game conducted its delineation in 1984. The public cited the area that is dominated by mulefat, and soil samples that they testified demonstrated that the 0.19-acre area north of the existing ramp is a wetland. The Commission continued the matter and requested the applicant and the staff biologist to provide more information concerning the vegetation and the possible wetland status of land that would be filled and developed as part of this proposed road widening. In response to this concern, staff requested Playa Capital to conduct a formal wetland delineation.

The Commission staff biologist visited the site with applicant's consultants and observed the field work conducted for the delineation. The vegetation within the area of mulefat is comprised predominantly of hydrophytes. In addition, there was evidence of inundation during winter 2000/2001 and evidence of previous inundation in the form of adventitious roots of a variety of sizes on the mulefat. Adventitious roots are an adaptive response to the anaerobic conditions that accompany inundation. As a result of this new information, the Commission's senior biologist determined that the area qualifies as a wetland as defined in the Coastal Act and the California Code of Regulations. The proposed new ramp from northbound Lincoln to Culver Boulevard impacts this 0.19-acre area. Section 30233 of the Coastal Act does not allow fill of wetland area for roads to serve new residential, office and

commercial projects. This road project is driven by and directly required by a residential, commercial and office project located nearby.

Area C is owned by the State. There are two issues regarding State ownership -- whether the applicant has a right to develop roads to accommodate its development on State property, and whether a road is an appropriate use of State property. A significant part of the land necessary to develop the roads is located on property held by U. S. Trust as trustee for the State. In 1984, the State granted Playa Vista an automatic a right to purchase Area C for an agreed sum if it purchased the area before December 31, 2000. In 1990, the State<sup>1</sup> granted Playa Capital an easement right to develop roads that were identified in the approved LUP and in City-approved tract maps for the area. Playa Vista failed to purchase Area C by December 31, 2000. The State Controller has now written a letter asserting that Playa Capital no longer has the ability to develop or improve roads on the property because its right to use the property for roads lapsed when the applicant failed to exercise its option. Playa Capital disputes this interpretation of the agreements between the parties. Until this dispute is resolved, the Commission cannot approve development by Playa Capital in Area C.

Because the applicant no longer has an automatic right to purchase it, Area C is now under consideration for development as a State Park. A second issue raised is the compatibility of a three-lane 72-foot wide road with a State Park.

In response to concerns that the increased runoff will carry additional polluted waters into Ballona Creek, the applicant is proposing an extended detention/biofiltration basin to filter runoff from the road, which will then discharge to Ballona Creek. The drainage basin will be vegetated with willows and other plants so it can provide both bio-remediation and habitat.

The project involves the removal of about five acres of upland vegetative cover. The applicant is proposing to revegetate the 1.1-acre drainage basin and the roadside areas adjacent to both Culver and Lincoln Boulevards.

The project is located in an area underlain by oil and gas bearing sediments, which release gas through the soil. There are measurable levels of thermogenic soil gas within the area, although most recent surveys indicate that concentrations of soil gas in the immediate area of the proposed road are not hazardous and are lower than those found in Area D, which is located south of this project. Soil gases are dangerous when they build up in enclosed spaces and are then mixed with oxygen. The City of Los Angeles standards for protection of structures from soil gas exempt small structures and unenclosed areas from the burden

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1. <sup>1</sup> Easement Agreement By and Between U.S. Trust Company of California, N.A. and Maguire Thomas Partners—Playa Vista, a California Limited Partnership, August 1990.
  2. Security agreement regarding Area C between Kenneth Cory, State Controller and Summa Corporation, 1984, with first through fourth amendments.

of collecting and venting gases. The staff of the City of Los Angeles Department of Public Works indicates that the City has not experienced problems with soil gas under roads, even in areas where structures are required to collect and vent methane. The Commission's staff geologist has reviewed the available reports and concurs that construction of the road will not raise dangers from soil gas. In addition, a report from the City Legislative Analyst indicates that Area C is not subject to high levels of soil gas.

The project will impact two mapped archaeological sites. Exploration and recovery of those sites is authorized in a programmatic agreement between the applicant, the US Army Corps of Engineers, the Tongva/Gabrieleño tribes and the State Historic Preservation Officer. Exploration of these sites, but not recovery, is authorized in Coastal Development Permit 5-98-164. The applicant has completed initial exploration of the two sites. One of the sites showed evidence of cultural deposits. The applicant has submitted an application to enable it to undertake archaeological recovery. The recovery plan has been distributed to the parties that co-signed the programmatic agreement. The Corps and SHPO have approved the recovery plan.

The California Code of Regulations (14 CCR section 13053.4) requires: "to the maximum extent feasible, functionally related developments to be performed by the same applicant shall be the subject of a single permit application." The Commission notes that this project is one of three road projects in the Coastal Zone that Playa Capital is required to complete. Another road project now approved by the City, and which may also be appealed, includes the installation of a bridge over Ballona Channel and an extension of a road, "Playa Vista Drive", from the channel to Culver Boulevard. This project is related to the present project because they are both located in Area C and they are both traffic mitigation measures required in the Playa Vista First Phase EIR. The third project is located in Area B, and involves changing the configuration of the intersection of Jefferson Boulevard and Culver Boulevard from a "V" configuration to a "T" configuration. That project is still under consideration at the City of Los Angeles. The project is related because it is also a Phase I traffic mitigation. The archaeological recovery is related to the present project because the Culver Road and intersection expansion will impact the site.

Caltrans has submitted an application to construct a grade-separated intersection at Culver Boulevard and the Marina Freeway. Caltrans has also circulated a draft EIR for additional widening of Lincoln Boulevard. That project has recently been submitted, and is being reviewed. The two projects are related but are not under the control of the applicant and they are not functionally related developments because the Caltrans project is not required to mitigate traffic impacts of the Playa Vista Phase I development.

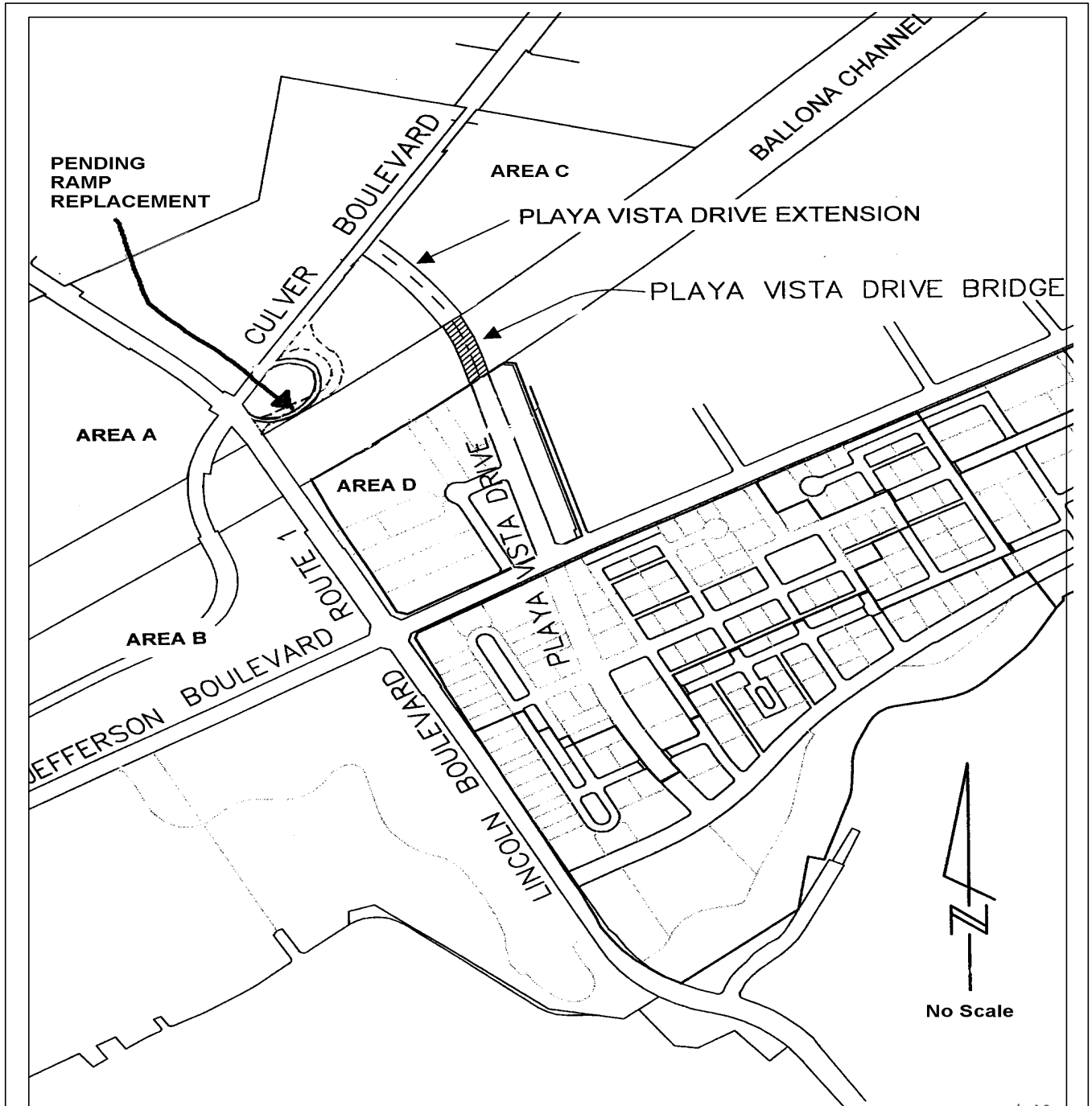


Figure 1. Project Location.

**Procedural Note:**

This project is located in the City of Los Angeles, which has assumed pre-certification permit jurisdiction under Section 30600(b) of the Coastal Act. While there is a certified LUP for this area, the Commission has not certified implementation ordinances. Section 30600(b) allows a local jurisdiction to issue coastal development permits prior to certification of its Local Coastal Program, subject to appeals by any person within 20 working days of issuance of the permit.

The Coastal Act also identifies areas where, irrespective of the City's grant of a coastal development permit in its pre-certification program, the Commission must grant a second coastal development permit for all development. Section 30601 establishes that, in addition to a permit from local government pursuant to subdivisions (b) or (d) of Section 30600, a coastal development permit shall be obtained from the Commission for all major public works projects, for developments located within 100 feet of any wetland, estuary or stream, or located between the first public road paralleling the sea and the sea. The project is a major public works project. This road-widening project is also located between Culver Boulevard, a public road, and the Ballona Channel, which because it is subject to tidal action, is regarded as an arm of the sea for purposes of Section 30601. Finally, the ramps are located within 100 feet of Ballona Creek, a tidal estuary.

On January 11, 2001, the Commission found that the appeal of local permit CDP-3B, appealed as A-5-PLV-00-417 (Playa Capital Company LLC), raised substantial issue with respect to its conformity with the Coastal Act. This present action is a combined action on the de novo hearing on Appeal A-5-PLV-00-417 and on permit application 5-00-400, which the applicant submitted in accordance with Section 30601. The Commission held an initial hearing on these matters on April 12, 2001, and continued the matter until its June 2001 hearing.

To avoid confusion, there is one set of findings applying to both permits, since the standard of review for both permits is identical--the Coastal Act. However, there are two motions and two resolutions.

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolutions to **DENY** the de novo permit and coastal development permit application:

## **FIRST MOTION**

*"I move that the Commission approve Coastal Development Permit 5-00-400 per the staff recommendation as set forth below."*

Staff recommends a **NO** vote, which would result in the adoption of the following resolutions and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

### **I. RESOLUTION TO DENY COASTAL DEVELOPMENT PERMIT 5-00-400:**

The Commission hereby **DENIES** a coastal development permit **5-00-400** for the proposed development on the grounds that the development will not conform with the policies of Chapter 3 of the Coastal Act.

## **SECOND MOTION**

*"I move that the Commission approve Coastal Development Permit A-5-PLV-00-417 per the staff recommendation as set forth below."*

Staff recommends a **NO** vote, which would result in the adoption of the following resolutions and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

### **II. RESOLUTION TO DENY DE NOVO PERMIT A5-PLV-00-417**

The Commission hereby **DENIES DE NOVO COASTAL DEVELOPMENT PERMIT A5-PLV-00-417** for the proposed development on the grounds that the development will not conform with the policies of Chapter 3 of the Coastal Act

### **III FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

#### **A. PROJECT DESCRIPTION AND BACKGROUND**



The project before the Commission is to (1) add a loop ramp that will connect north bound Lincoln Boulevard to east bound Culver Boulevard, (2) relocate, improve the radius of and widen a second loop ramp that presently connects east bound Culver Boulevard with north bound Lincoln Boulevard, and (3) add a lane (38-41 foot wide strip) to Culver Boulevard on the south side of Culver Boulevard from Lincoln Boulevard to the Marina Freeway, (Route 90), (4) construct ground level ramps between Culver Boulevard and the Marina Freeway, (5) add lighting, drainage and landscaping, and (6) install a 1.1 acre extended detention/bio-filtration basin. Both the Commission and the City approved the ramp and road widening portions of this project in 1995 as 5-95-148(Maguire Thomas). Due to financial difficulties, the applicant did not construct the project and the permit expired. This and recently approved Coastal Development Permit 5-99-139, widening of Lincoln Boulevard, are applications to seek re-approval of two parts of the project approved in CDP 5-95-148.

The proposed street expansion is required to mitigate traffic generated by Playa Vista Phase One, two tracts located outside the Coastal Zone that the City of Los Angeles approved in 1995 (see Table 1). This and other widening projects were mitigation measures imposed by the Phase I EIR, as amended. It is proposed to add 38 to 41 feet of pavement to the 34 to 37 foot-wide road, improve the safety of an existing ramp at Lincoln, provide a connection to north bound Lincoln from Culver Boulevard and provide at-grade one-way ramp connections at the Marina Freeway. The enlarged road is required by the City in order to relieve Jefferson Boulevard from traffic seeking to take the northbound 405 from the homes and workplaces in the Phase I Playa Vista project and reduce its traffic impacts on Lincoln Boulevard, an already over-burdened north-south route.

## **B. MARINE RESOURCES**

The project is proposed in an area that included a historic wetland. The project will also drain into Ballona Creek, which is an estuary.

Sections 30230, 30231 and 30233 of the Coastal Act state:

### Section 30230.

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

### Section 30231.

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge spoils suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

#### **WETLANDS IDENTIFIED IN 1984 BY THE DEPARTMENT OF FISH AND GAME**

In 1984, (and again in 1991) the Department of Fish and Game identified 2.5 acres of wetland in Area C (Exhibit 11, p6). The identified wetland areas constitute a drainage channel (the Marina Drain) that flows into the Marina del Rey and also a patch of Salicornia near the northwesterly corner of Area C (Exhibit). The drainage channel is an identified Corps wetland. It flows in a culvert under Lincoln Boulevard into a similar channel in Area A that drains, through another culvert into Marina Basin H. Any fish found on the site would reside in this channel that has water. The widened road will not encroach into either of these identified wetlands; in fact both are north of Culver, while the widening and the ramps are south of Culver. The proposed street drains will drain into the Ballona Creek and not to the Marina Drain or the patch of Salicornia identified elsewhere.

#### **WETLANDS RECENTLY IDENTIFIED BY THE SENIOR STAFF BIOLOGIST**

This area was historically part of the Ballona wetlands. It was farmed as late as the 1950s. In the 1960's, construction activities in surrounding areas disturbed the site which received considerable amounts of fill, probably at different times and from different sources. The site is now surrounded by topographic highs formed by the levee for Ballona Creek, road

embankments, and the twenty-foot high mound of fill south of Culver Boulevard between Culver Boulevard and Ballona Creek that is occupied by Little League ball fields. The loop ramp site is a depression west of this mound, and east of the present ramp. This depression supports a mix of native and exotic vegetation. The dominant vegetation is comprised of weedy exotic species characteristic of disturbed areas. There are also several small stands of mulefat (*Baccharis silicifolia*), a typically riparian species. Nine other species which are tolerant of wet conditions are present at the site, the most common being bristly oxtongue (*Picris echioides*) and curly dock (*Rumex crispus*). Mulefat is a native plant that grows along streams, on the borders of wetlands and in areas that are seasonally wet. Bristly oxtongue is found sometimes in wetlands, and sometimes in uplands. Curly dock is generally found in wet areas, but is also common in seasonally moist upland situations. All three of these species are wetland facultative plants, which means that they tolerate wet and saturated habitats, but are not dependent on them. They also are found in areas that are not wetlands or along stream banks.

Under the Cowardin method of wetland delineation, a method used by the Department of Fish and Game in California, a site is a wetland if one of the following applies:

- 1) the land is periodically inundated or saturated, or
- 2) the soils are hydric (soils that are periodically anaerobic due to saturation), or
- 3) the predominant vegetation is adapted to life in saturated soil conditions.

In its regulations, the Commission defines wetlands

13577(b) Wetland ...Wetlands shall be defined as land where the water table is at, near or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, waterflow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface wet or saturated substrate at some time during each year and their location within or adjacent to vegetated wetlands or deepwater habitats. For purposes of this section, the upland limit of a wetland shall be defined as:

(A) The boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover;

(B) The boundary between soil that is predominantly hydric and soil that is predominantly non-hydric; or

(C) In the case of wetlands without vegetation or soils, the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not.

So the presence of either water on or near the soil surface, predominantly wetland vegetation, or predominantly hydric soils defines wetlands. The presence of only one

indicator is enough--if the plants are there; the soils do not have to be hydric for an area to be defined as a wetland.

The area in which the proposed road widening is located is a historic wetland that has been altered by fill, by the channelization of Ballona Creek in the 1930's and by the construction of the Marina in the 1950's. Part of the 0.19-acre area just north and west of the present ramp supports mulefat and ponds in the rainy season—the frequency and duration of ponding is still subject to debate. The applicant submitted a soils report that shows that the soils are not hydric, confirming reports prepared by the previous owner during preparation of the LUP.

In this case, the Commission staff biologist, Dr. John Dixon, visited the site twice. At the time of the first visit, he walked the site with the applicant's biologist who described the vegetation, which consisted of mulefat, and other facultative wetland species intermixed with upland weeds. Dr. Dixon noted that mulefat is a perennial plant that is found in wetlands but also in upland areas that are occasionally subject to wet conditions. It is a drought evader that is able to persist where surface conditions are dry if it can establish deep roots that contact ground water. He indicated that the simple presence of mulefat at the loop ramp site did not mean it was a wetland and that, if the predominant vegetation in and around the mulefat was comprised of upland species, the area probably wouldn't delineate. However, no data were taken and no formal wetland determination was made. The staff report dated March 22, 2001 states that the Commission's biologist determined that there were no wetlands at the location of the proposed project. However, this statement is incorrect. In reviewing the report, the Commission's biologist thought the report reviewed to a different location. See John Dixon, Commission Senior Biologist, Memorandum to Pam Emerson: "Wetland Delineation at Culver Loop Ramp," May 22, 2001. (Exhibit 5). At that time, the Commission's biologist had not made a determination regarding the presence of wetlands at the project site.

Subsequently, it was reported to the Commission staff that there was evidence of ponding at the site and that the mulefat in one of the stands bore adventitious roots. An adventitious root is a root which originates above the ground surface as an adaptive response to inundation. As a result of this new information, the applicant was requested to complete a formal wetland delineation. Dr. Dixon again visited the site and observed the field work for the delineation. His report, made on May 22, 2001 is contained in Exhibit 5, and excerpts are presented below.

The applicant asserts that no areas at the site are wetlands and that no areas have positive indicators of all three wetland criteria (hydrology, hydrophytes, and hydric soils). The applicant acknowledges the predominance of wetland vegetation in some areas, but notes that those areas have no hydric soils. The applicant also points out that most of the wetland species present also are sometimes found in uplands and that the vegetation

appears to have become of a wetter nature over the past decade, and therefore evidence of wetland hydrology must be shown. The applicant discounts the evidence of ponding provided by the presence of adventitious roots because they do not prove that ponding occurs in most years. Similarly, they discount the observations of ponding earlier this year, because the temporal pattern of rainfall was highly unusual (several instances of very high rainfall over a period of a few days). In fact the applicant's hydrological consultant goes so far as to assert that the observations of ponding following extremely intense rainfall events, "...illustrate the extreme events required to cause inundation or saturation to the surface in this feature." Of course, this is a logically untenable position. Observations of ponding following an extreme event is not evidence that ponding can not occur following less extreme events. It appears to staff that the applicant is applying a standard that requires positive indicators of two or three wetland criteria as defined by the Army Corps of Engineers. This is a much more stringent standard than required under the Coastal Act and California Code of Regulations.

After review of the sampling data collected from 18 "sample plots", and another site visit, the Commission's staff biologist concluded that the area that is dominated by mulefat with adventitious roots and that showed evidence of ponding during the last year is a wetland under the Coastal Act and Regulations.

Dr. Dixon's analysis follows:

The vegetation at the subject site is comprised of a mix of upland and wetlands species (Table 1). Eighteen, more-or-less uniformly arrayed, sample plots were examined at the loop ramp site on April 19, 2001.

Table 1. Plant species observed in sample plots at Culver Boulevard loop ramp.<sup>4</sup>

Common Name	Species Name	USFWS Indicator Status
Russian knapweed	<i>Acroptilon repens</i>	Non indicator *
Scarlet pimpernel	<i>Anagallis arvensis</i>	FAC
Wild oats	<i>Avena barbata</i>	Non indicator
Mulefat	<i>Baccharis salicifolia</i>	FACW
Ripgut grass	<i>Bromus diandrus</i>	Non indicator
Foxtail chess	<i>Bromus madritensis</i>	Non indicator
Soft chess	<i>Bromus mollis</i>	Non indicator
Chrysanthemum	<i>Chrysanthemum coronatum</i>	Non indicator
Alkali weed	<i>Cressa truxillensis</i>	FACW
Umbrella sedge	<i>Cyperus</i> sp.	FACW**
Sweet fennel	<i>Foeniculum vulgare</i>	FACU
Alkali mallow	<i>Malvella leprosa</i>	FAC
Indian sweet clover	<i>Melilotus indica</i>	FAC
Bristly oxtongue	<i>Picris echioides</i>	FAC
Wild radish	<i>Raphanus sativa</i>	UPL
Castor bean	<i>Ricinus communis</i>	FACU
Curley Dock	<i>Rumex crispus</i>	FACW-
Rat-tail fescue	<i>Vulpia myuros</i>	FACU
Spiny cocklebur	<i>Xanthium spinosum</i>	FAC+
* Not in the USFWS list of wetland species. Can conservatively be assumed to be upland species. **No species ID, but probably FACW.		

In eight of these plots, there was a predominance of plants designated OBL, FACW, or FAC (Table 2). Applying the FAC-Neutral test, there were five plots with a preponderance of hydrophytic vegetation. The site is bounded on all sides by topographic highs forming a

<sup>4</sup> Winfield, 2001, op. cit.

closed basin. Plots 12 and 13 were in a stand of mulefat in the lowest part of the basin. This area was ponded to an unknown depth and for an unknown duration during the winter of 2000/2001 as evidenced by photographs and the presence of sediment deposits (some with a thin algal crust). The mulefat in this portion of the site have adventitious roots arising from the lower 5 inches of the stems. Adventitious roots are a response to ponding. They develop at or just below the surface of the water after a period of 2-5 days or more, depending on the species.<sup>2</sup> The adventitious roots on the mulefat individuals in the bottom of the depression at the loop ramp varied from around 1/8 to 1/2 inch in diameter. This suggests substantial ponding for a week or more on at least several occasions. As one moves upslope from this relatively wet area, the proportion of upland plants increases. I conclude that the area at the bottom of the basin supporting mulefat with adventitious roots is “covered periodically with shallow water” and supports a vegetative cover that is “predominantly hydrophytic,” and therefore qualifies as a wetland under the Coastal Act and California Code of Regulations. For the rest of the document, see John Dixon, Commission Senior Biologist, Memorandum to Pam Emerson: “Wetland Delineation at Culver Loop Ramp,” May 22, 2001. (Exhibit 5)

Table 2. Standard and FAC-Neutral tests of predominance of hydrophytic vegetation. For purposes of this analysis, “Non-indicator” species were assumed to be UPL. Mulefat was included in plots 2, 12 & 13.<sup>3</sup>

Sample Plot	Percent FAC or wetter (no/total)	Percent Wetland Plants in FAC Neutral Test (OBL+FACW/Total – FAC)	Sample Plot	Percent FAC or wetter (no/total)	Percent Wetland Plants in FAC Neutral Test (OBL+FACW/Total – FAC)
1	40 (2/5)	25 (1/4)	10	67 (2/3)	50 (1/2)
<b>2</b>	<b>100 (2/2)</b>	<b>100 (2/2)</b>	11	50 (2/4)	33 (1/3)
3	25 (1/4)	25 (1/4)	<b>12</b>	<b>100 (5/5)</b>	<b>100 (2/2)</b>
4	25 (1/4)	25 (1/4)	<b>13</b>	<b>75 (3/4)</b>	<b>67 (2/3)</b>
5	50 (1/2)	0 (0/2)	14	20 (1/5)	20 (1/5)
<b>6</b>	<b>100 (5/5)</b>	<b>100 (1/1)</b>	15	50 (4/8)	33 (2/6)
7	50 (2/4)	33 (1/3)	16	29 (2/7)	17 (1/6)
<b>8</b>	<b>75 (3/4)</b>	<b>67 (2/3)</b>	17	20 (1/5)	20 (1/5)
9	67 (2/3)	50 (1/2)	18	80 (4/5)	50 (1/3)

<sup>2</sup> Tiner, 1999, op. cit.

<sup>3</sup> Mulefat was not included on the data sheets for these plots in Winfield’s report. This is because the nature of the sampling procedure excluded this species. Only those species rooted within a haphazardly placed quadrant were noted. Since the quadrant was a square of PVC pipe the stems of large bushes like mulefat could not be included. However, where the quadrant was under the canopy, mulefat should have been counted.



The applicant's consultant arrived at different findings:<sup>4</sup> "Based on all of the evidence, this report concludes that there are no wetlands in the project area and that there is no area that clearly possesses positive indicators for all three of the basic criteria used to define wetlands." I believe the difference in conclusions is a result of the fact that Dr. Winfield in fact applied an Army Corps of Engineers three-criteria test, requiring positive indicators of wetland hydrology, hydric soils, and hydrophytic vegetation.

The area identified by the staff biologist covers areas expected to be impacted by the proposed loop ramp connector and its supporting berm. It does not extend appreciably north from the intersection of the proposed ramp and Culver Boulevard.

Accordingly, fill of wetlands is necessary for construction of the proposed new ramp. However, fill of wetlands for this purpose is not an allowable use of wetlands under Section 30233 of the Coastal Act. The new ramp is required to mitigate traffic impacts of new residential and commercial development proposed by the applicant outside the coastal zone. Section 30233 allows fill of wetlands for commercial fishing facilities, ports, coastal-dependent industry, boating facilities and for incidental public purposes. Section 30233 does not allow fill of wetlands for new residential, commercial office building or retail development. The proposed ramp is required as part of the applicant's new residential and commercial development project, to accommodate additional traffic that the development will generate. To the extent that the new ramp constitutes part of the residential/commercial development, it is not an allowable use of wetlands under Section 30233. In *Bolsa Chica Land Trust v. Superior Court* (1999) 83 Cal.Rptr. 2d 850, 860, the Court of Appeal stated that under Section 30233 "residential development is not a use permitted in wetlands." Furthermore, the new ramp is also not allowed under Section 30233(a)(5) as an "incidental public service purpose." In *Bolsa Chica*, the Court of Appeal also found that widening of a road to accommodate additional traffic from new development in the area was not allowable as an "incidental public service purpose." *Id.* at 864. Similarly, in this case, the road expansion project (the new ramp connecting Culver Boulevard to Lincoln), is required to accommodate additional traffic from new development. Therefore, the new ramp is not "an incidental public service purpose" and is not allowable under Section 30233(a)(5).

The applicant has not yet had the opportunity to review the Commission's biologist's findings or to propose an alternative design of the loop ramp that avoids the wetlands. Therefore, the Commission staff cannot presently determine whether there is a feasible alternative that might be consistent with Section 30233. Furthermore, because of the lack of information about potential alternatives, even if the ramp were an allowable use, the Commission cannot find that the proposed new ramp complies with requirement in Section 30233 (a) that fill is only allowed where there is no feasible less environmentally damaging alternative.

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<sup>4</sup> Winfield, 2001, op.cit.

Therefore, since the new ramp is not allowable fill under Section 30233, the new ramp is inconsistent with Section 30233 and must be denied.

## **RUNOFF**

The applicant notes that the addition of a loop ramp and widening of Culver Boulevard would increase the impervious surfaces in Area C from 2.53 acres to 7.40 acres (including future road areas) of the total project drainage area of 21.3 Acres. Moreover, impervious areas result in an increase in the volume and velocity of runoff, due in part to the loss of infiltrative capacity of permeable space. Runoff conveys surface pollutants to receiving waters through the storm drain system.

Pollutants of concern associated with the proposed roadway development include heavy metals (copper, zinc, and lead), oil and grease. Other pollutants commonly found in urban runoff include pesticides, herbicides, suspended solids, floatables, viruses and bacteria.

The receiving waters for the development, Ballona Estuary and Channel are listed on the 303(d) list of impaired water bodies. According to the California Water Resources Board 1998 303 (d) list, the following parameters are causing impairment: Heavy Metals, Pesticides, Chem.A, PCBs, Tributyltin, Trash, Enteric Viruses/High Coliform bacteria counts, toxicity and sediment toxicity.

The applicant's consultant from GeoSyntec has examined the effect of the proposed development on the receiving waters, in part, relative to these parameters. A thorough discussion is provided in a GeoSyntec Consultants Report entitled "Stormwater System Water Quality Evaluation Report – Culver Loop Ramp and Widening" dated November 30, 2000, and signed by Eric W. Strecker, Associate GeoSyntec Consultants.

The proposed stormwater system involves a storm drain system comprised of catch basins (inlets) and pipes that convey runoff off the roadways, and an extended detention/biofiltration basin, to be located in the center area of the loop ramp, which will detain and treat runoff from the Playa Vista Culver Loop Ramp and the Culver Boulevard Widening Project. The extended detention/biofiltration basin will drain to the Ballona Channel.

The proposed extended detention/biofiltration basin incorporates a series of earthen vegetated berms that will direct water through native vegetation. The basin will provide pollutant removal through settling and biofiltration functions. According to the applicant's consultant, the extended biofiltration system was chosen because of its "expected high effectiveness in achieving good stormwater effluent quality ... and because of the fact significant land area was available for such a facility in the center of the loop." The consultant believes that, when practical, above-ground facilities are preferable to below ground, because they typically have improved performance due to more enhanced removal

mechanisms such as photo-degradation." The consultant also indicates that with such a system, needs are more visible.

The consultant asserts that with the planned system to treat existing runoff, as well as runoff from the project and from roads proposed for the area in the future the quality of stormwater discharged from the site will almost certainly improve. The proposed development is not expected to introduce additional pesticides to stormwater from this project because many pesticides are banned. According to the consultant, PCBs are typically highly absorbed to particulates, thus the proposed Best Management Practice (BMP)(described in detail below) should be effective at reducing any minor concentrations which might be present. The proposed BMP is expected to collect trash and reduce levels of coliform bacteria. The consultant states that levels of coliform bacteria can be reduced by over 50% in water quality basins (such as the proposed BMP described below).

The Commission finds, however, that the construction of an extended detention biofiltration basin as a water quality treatment BMP intended to "treat" the capture volume, is dependent upon the applicant's ability to construct the improvements. The Commission notes that the basin and the fill for the ramps would extend over a low area that is the site of the mulefat and is a wetland. For the same reasons that the loop ramp is not allowed in wetlands under Section 30233, any fill or increase flooding due to the proposed detention basin is also not an allowable use in wetlands and cannot be approved.

The Commission notes that the detention basin was designed to be integrated with the new loop ramp and since the loop ramp is not approved, it is not possible to construct or operate the detention basin as proposed. Without the basin, the applicant is not providing the mitigation needed to prevent adverse impacts on water quality due to the increase in pavement from widening Culver Boulevard and the ramps between Culver Boulevard and the Marina Freeway. Therefore, the Commission cannot find the project constant with Sections 30230 or 30231.

The detention basin is designed to treat runoff from the widening of Culver Boulevard, the ramps between Culver and the Marina Freeway, and construction of a new loop ramp. Since the loop ramp is not approved, the capacity and or size of the detention basin may not be appropriate. Therefore, the Commission also cannot approve the proposed basin for this reason as well.

Determining whether it is a feasible alternative to move the basin east so it does not disturb the mulefat requires consideration of numerous factors, including the following: 1) the basin would need to be redesigned so that it did not damage the biological productivity and functioning of the present mulefat area; 2) the depth, function and hydrology of the basin would need to be reconsidered, and 3) the change in the location of the intersection with Culver and the ramp would affect the sight distance between the ramp intersection and the

intersection of Culver and the proposed Playa Vista Drive and also between the ramp intersection and the Culver City Little League Driveway, which will require analysis and approval by the City of Los Angeles Department of Transportation.

Finally, if the loop ramp could be approved, appropriate mitigation for water quality impacts could be required with conditions to assure its adequacy. However, the mitigation as currently designed will impact a wetland area. Possible alternatives may exist that would not impact the  $\pm 0.19$  acre wetland but such alternatives would require study and analysis. Therefore, the Commission finds that the project will have individual and cumulative impacts on water quality and marine resources, inconsistent with Sections 30231 and 30232 of the Coastal Act and must be denied.

### **C. RELATED PROJECTS**

There are other street and highway expansion projects that are required in the Playa Vista Phase One mitigation measures and are expected to be submitted to the Commission in coming months.

The California Code of Regulations (14 CCR section 13053.4) requires: "to the maximum extent feasible, functionally related developments to be performed by the same applicant shall be the subject of a single permit application." Section 15165 of the California Code of Regulations, addressing "Multiple or Phased Projects " under the California Environmental Quality Act, (CEQA), requires:

When individual projects are, or a phased project is, to be undertaken and where the total undertaking comprises a project with significant environmental effect, the lead agency shall prepare a single program EIR for the ultimate project as described in section 15168.

For purposes of this section, subsection 15378 (a) defines "Project."

(a) "Project" means the whole of an action, which has potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and that is any of the following: [...]

(3) An activity involving the issuance to a person of a lease, permit license certificate or other entitlement for use by one or more public agencies.

In this case, the roads will all be transferred to public agencies upon their completion. The Commission notes that this project is one of three major road projects in the Coastal Zone

that Playa Capital is required to complete as mitigation measures for Phase I of its project. Therefore, in this case, the total undertaking comprising one project is all traffic mitigation measures, "improvements" and road widening that Playa Capital will undertake for Phase I, as approved by the City. (Exhibits 13 and 14) Many of the required improvements are located outside the Coastal Zone, or involve activities such as the installation of left turn lanes or the upgrading of traffic light systems that are exempt due to their minimal impact. The applicant has received a City of Los Angeles coastal development permit for another required Phase I road improvement that will be located in Area C which consists of the extension of Playa Vista Drive (previously identified as "Bay Street") from Jefferson Boulevard, over a new bridge over Ballona Creek, then through the present Little League ball field area to an intersection with Culver Boulevard, the street subject to the current application. The applicant has submitted an application # 5-01-107 directly to the Commission for the same project. The application is still incomplete due to ownership issues outlined in Section C above. A City of Los Angeles application is pending for a third project that is also a Phase One requirement but that is not located in Area B. The City has required the applicant to change the geometry of the intersection at Culver Boulevard and Jefferson Boulevard in Area B from a "V" shaped intersection to a "T" intersection and is conducting hearings on the coastal development permit for this intersection improvements. The project will facilitate traffic over the same Culver Boulevard roadway, but is located at the edge of the central area of the saltmarsh as mapped by the Department of Fish and Game in 1984.

Other proposed road widening projects in the vicinity are not being carried out by Playa Capital and are therefore not part of this project as defined by CEQA. Caltrans has submitted an application, still incomplete, for a full freeway interchange at Culver Boulevard and Route 90, bridging over Culver Boulevard at the Coastal Zone boundary. Caltrans has also released an EIR and submitted an application for a coastal development permit for widening Lincoln Boulevard to eight lanes from Hughes Terrace, at the southern end of the Playa Vista project, to Fiji Way. The first Phase of Playa Vista does not require these two Caltrans expansions.

Projects located in Area C may have cumulative impacts on the resources of Area C when examined together. Two roads very close to each other can affect hydrology, and interrupt both vegetation and animal migration routes. Public Resources Code Section 21083 requires that the guidelines for implementing CEQA shall contain criteria for determining whether a project has a significant effect on the environment, and states:

The criteria shall require a finding that a project may have a 'significant effect on the environment' if any of the following conditions exist: [...] (b) The possible effects of a project are individually limited but cumulatively considerable. As used in this subdivision, 'cumulatively considerable' means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past

projects, the effects of other current projects, and the effects of probable future projects.

The Commission is required to consider the cumulative impacts of proposed projects, and therefore in this case, the Commission must consider the effects of both other current projects and probable future projects that may have adverse impacts on the resources in the area of the proposed road expansion. The two road projects in Area C -- the project proposed in this application and the extension of Playa Vista Drive with a bridge over Ballona Creek -- should be considered together so that their cumulative impacts and all alternatives can be considered at the same time. The intersection change in Area B could be evaluated independently because the effects on hydrology and habitat of the area attributable to the road re-alignment in Area B may be analyzed independently of the road work in Area C.

As proposed, all related projects have not been submitted in one application, so all related and cumulative impacts can be considered. The project as submitted does not include all functionally related projects at the same time, or all reasonably foreseeable projects, and is therefore not consistent with the California Code of Regulations, Section 13053.4 (14 CCR section 13053.4), or the requirements of CEQA, and therefore must be denied.

#### **D. RIGHT OF THE APPLICANT TO SUBMIT THE APPLICATION**

Section 13053.5(b) of the California Code of Regulations requires that an applicant for development shall provide documentation of its legal interest in all the property upon which work would be performed, if the application were approved, e.g., ownership, leasehold, enforceable option, or authority to acquire the specific property by eminent domain. If the applicant does not own the property, it must also provide evidence that the owner of the property has been invited to be a co-applicant.

Area C is owned by a trust company, the United States Trust Company of California N. A., for benefit of the State of California. When the previous owner of the property, Howard Hughes, died, his successor in interest, Summa Corporation, and the State agreed that the State would take Area C in lieu of part of the amount due in estate taxes. In a Security Agreement, the State also agreed that the Summa Corporation or its successors could buy back the land for an agreed on sum by December 31, 2000. After that time, the State was not obliged to sell the property back to Summa's successor. However, Summa or its successor has a right of first refusal if the property is intended to be sold. The Security Agreement, and subsequent amendments, gave Playa Capital certain rights to fence, test, maintain and propose development on the Area C property. Independent of that agreement, in 1990, U.S. Trust Company and the developer recorded an easement over the property granting Maguire Thomas (Summa's initial successor) or its partners or

successors an easement to build certain road improvements. The applicant, Playa Capital Company, LLC, is Summa Corporation's successor.

On May 14, 2001, the State Controller wrote the Commission Chair stating in part:

“My office is opposed to any roads constructed or expanded on this parcel. As you know, this property is currently being held in trust for the benefit of the State of California. Moreover, efforts are currently underway to transfer the entire 73-acre parcel to the California department of parks and recreation. Given that my office is entrusted with the responsibility and stewardship of this land until such time as we can transfer it to the Department of Parks and Recreation, I am notifying you that any purported consent previously given by my office to the applicant for the purpose of constructing or expanding roads on Area C is hereby withdrawn. Any such consent would have been premised upon Playa Capital exercising its option to purchase the 73 acres in issue. The option expired December 31, 2000, and was not renewed.” (See Exhibit 9)

In asserting its rights to develop the road, the applicant provided documents as listed below.

1. Security agreement regarding Area C between Kenneth Cory, State Controller and Summa Corporation, 1984, with first through fourth amendments.
2. Copy of October 30, 1998 correspondence from Chief Deputy Controller to US Trust Company of California with attached irrevocable offer to dedicate.
3. Easement agreement by and between Maguire Thomas partners—Playa Vista and U.S. Trust Company, dated August, 30, 1990. (Exhibit 11)
4. Map and conditions of approval, Tentative Tract Number 44668, City of Los Angeles, May 4, 1987

The applicant asserts the following: that the Easement Agreement survives the termination of the Security Agreement, and the 1990 easement authorizes improvements that are defined in Section I.A.4, Page 3 of the Easement Agreement (Exhibits 11,12) by reference to certain provisions of the Security Agreement between the State and Maguire Thomas Property Playa Vista (the applicant's immediate predecessor). The Security Agreement includes an exhibit, Exhibit B, that lists road improvements contemplated. The 1990 easement adopts the list by reference. The applicant's response to the Controller's position is set forth in a letter attached as Exhibit 10.

Independent of the dispute, some of the area subject to this application is already dedicated to the City, and the City has approved its use for the project. These areas include:



1. An arcuate (bow-shaped) area directly northwest of and adjacent to the existing loop ramp.
2. A tapered area extending from the widened loop intersection to a point approximately half the distance from the loop ramp to the northern property line.

With respect to the expansion that is proposed adjacent to the freeway, the applicant owns a 50-foot strip adjacent to the freeway and also a strip directly north of and parallel to Culver Boulevard for the entire length of the property from the Marina freeway to Lincoln Boulevard. These two strips are former railroad rights-of-way. The applicant has provided an agreement with Caltrans that allows it to encroach on the highway to install the ramps (California Department of Transportation (CALTRANS), Encroachment Permit 798-6MC-0618; Encroachment Permit Rider 700-6RW-2956, November 8, 2000.) Caltrans has submitted an application to the Commission to widen and improve Route 90, indicating that their long-term plans also include an improved Culver/Route 90 interchange.

Completion of the entire project however will require some land where development of roads will be dependent on authorization to use the property held by U.S. Trust Company on behalf of the State of California.

Section 30601.5 of the Coastal Act provides the following:

“Where the applicant for a coastal development permit is not the owner of a fee interest in the property on which a proposed development is to be located, but can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, the commission shall not require the holder or owner of any superior interest in the property to join the applicant as co-applicant. All holders or owners of any other interests of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant. In addition, prior to the issuance of a coastal development permit, the applicant shall demonstrate the authority to comply with all conditions of approval.”

Under Section 13053.5(b), Title 14 of the California Code of Regulations, an applicant must provide: “A description and documentation of the applicant’s legal interest in all the property upon which work would be performed, if the application were approved, e.g., ownership, leasehold, enforceable option, authority to acquire the specific property by eminent domain.”

In this case, the owner of the fee interest has not joined the applicant as co-applicant. The Controller’s assertion that any approval given for use of the State trust property is revoked has created a dispute regarding the applicant’s legal rights to carry out the project and/or comply with the required conditions of approval. With this issue in dispute, the Commission

cannot approve the project as submitted because the applicant has not established the legal right to carry out the project or comply with the required conditions of approval.

While the applicant asserts that it has provided documentation of its legal interest or entitlement to use the property for the proposed project, the State Controller disputes this. This dispute raises questions of interpretation of complex contractual agreements to which the Commission is not a party. The Coastal Commission cannot resolve this dispute. Therefore, the Commission must deny the project because the applicant has not established compliance with Section 30601.5 of the Coastal Act or Section 13053.5(b) of the Commission's regulations.

## **E. PUBLIC SHORELINE ACCESS**

This is a case in which the development, a road, works very well as a traffic improvement and does improve the ability of the public to drive to and from the coastline. However, the road has impacts on the land that it is intended to cross.

The Coastal Act requires the Commission to protect shoreline access. Culver Boulevard is a major coastal access route in a network of heavily traveled roads. It is already heavily traveled during peak hours, Level E or 1,000 cars per hour at the Culver/Marina Freeway on ramp.<sup>5</sup> Culver Boulevard was first constructed in the late 1920's. It extends from Playa del Rey to the intersection of Venice, Robertson, and Exposition Boulevards, following the route of a railway line that once served the beach cities. Culver Boulevard crosses Lincoln Boulevard on a bridge and only one connection from Culver Boulevard to Lincoln is possible: travelers eastbound on Culver Boulevard from the beach cities can now use a ramp to transition to northbound Lincoln Boulevard. It is not possible to turn from Lincoln Boulevard to Culver in either direction, or turn off westbound Culver Boulevard to Lincoln Boulevard.

The purpose of this project is to divert traffic originating in Playa Vista Phase One from Lincoln and Jefferson Boulevards by providing an alternate route from Area D Playa Vista to the 405 Freeway via Route 90. In this way, it is expected to reduce Playa Vista Phase I traffic impacts on one of the more important coastal access routes in Los Angeles, Lincoln Boulevard (Route 1). The eastbound Culver Boulevard/Route 90 ramps are already heavily used, performing at Level of Service (LOS) D and E during the evening peak hour. Additional capacity is needed on these ramps to accommodate Playa Vista Phase I and to reduce impacts on commuters from South Bay communities who use Culver Boulevard to access the 405 Freeway. The new loop ramps will provide a connection from westbound Culver Boulevard to Lincoln and from there to the South Bay, Marina del Rey, Venice Beach or Santa Monica. The project will make it possible to reach Area C via Lincoln Boulevard, which is now not possible (Exhibits 2, 3 and 4).

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<sup>5</sup> Traffic engineers consider 1,000 cars per hour per lane "capacity" for a major collector such as Culver Boulevard (Barry Kurtz, Los Angeles County Public works, personal communication.)

Section 30210 of the Coastal Act requires maximum access and recreational opportunities to be provided.

Section 30210.

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30252 requires that new development be sited and designed to reduce traffic impacts and to improve and protect access to the coast:

Section 30252.

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

This road widening is only one of the many road widening and other traffic mitigation measures that the City has required Playa Vista Phase One to provide. The Phase I EIR requires many automobile and non-automobile traffic mitigation measures (Exhibits 13 and 14). Traffic calculations for the entire project predict that the location of commercial, business and residential uses in the same complex, combined with the provisions of internal jitneys, will reduce the number of trips generated by the project by as much as 25% (when the project is built out). The project also includes measures to improve mass transit serving the project, although traffic planners indicate that no more than 2% of trips will occur on mass transit. The non-automobile traffic mitigation measures include alteration of traffic signals on Lincoln Boulevard to allow “smart” signals that will increase speed of busses and internal jitneys. Despite the careful planning, Playa Vista Phase I will have major impacts on the street system.

The City of Los Angeles in its first phase EIR for the Playa Vista project documented major traffic impacts due to the project on all of the major north/south and east/west routes between Robertson Boulevard and the coast, and between Rose Avenue and Manchester. Lincoln Boulevard and other north/south routes are the most congested because there are few alternatives. These routes are also main coastal access routes.

The applicant's traffic engineers predict that 98% of trips from Phase I will be by automobile. They indicate that most employees and residents of Phase I will make most trips in private cars and, therefore, the project traffic mitigation measures must include widening streets and intersection improvements in a wide area surrounding the project. The purpose of the street widening and ramps proposed in this project is to allow private automobiles to leave the Playa Vista Phase I and reach the freeway system without impacting Lincoln Boulevard, which is one of the most heavily traveled streets in the City. A second required connection (Bay Street or Playa Vista Drive), still under review by the City Department of Public Works, would connect the center of Area D to Culver Boulevard by means of a bridge over Ballona Creek (Exhibit 2). The two connections would divert traffic from both Lincoln and Jefferson Boulevards enabling commuters and residents to reach the Marina Freeway without entering Lincoln Boulevard. The City has issued a coastal development permit for Bay Street/Playa Vista Drive, a new street, and the applicant has submitted an application to the Commission, which will be accepted after the appeal period is complete.

The applicant asserts that the purpose of the present project is to reduce the impact of Playa Vista Phase One on Lincoln Boulevard and make access to Area C possible from communities to the north and the south. The improvement of access and the mitigation of impacts to access attributable to an approved project that is located outside the Coastal Zone can be found consistent with the public access policies of the Coastal Act. Increased traffic on Lincoln Boulevard would have adverse impacts on beach access and public recreation and the proposal subject to this application will address and mitigate, in part, such impacts. As proposed, the project is consistent with Sections 30210 and 30252 of the Coastal Act. Before the project can be found consistent with Chapter 3, however, the Commission must also evaluate the project's consistency with Coastal Act policies that protect wetland and recreational resources.

## **F. RECREATION**

The Coastal Act provides for protection of oceanfront land that is suitable for recreation and for recreation support.

### Section 30220

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The Controller has initiated a process that could lead to the State retaining Area C for public park purposes. The investigation is in its initial stage only. No funds have been allocated to create the park, and no legislative authorization to convert the land is yet approved. While no final decision has been made concerning the disposition of the property, the Commission can consider the compatibility of a 74-foot, three-lane roadway with a park. The Commission's ability to deny a project based on future use of the area as a park is limited by Section 30604(e), which states:

(e) No coastal development permit may be denied under this division on the grounds that a public agency is planning or contemplating to acquire the property on, or property adjacent to the property on, which the proposed development is to be located, unless the public agency has been specifically authorized to acquire the property and there are funds available, or funds which could reasonably be expected to be made available within one year, for the acquisition. If a permit has been denied for that reason and the property has not been acquired by a public agency within a reasonable period of time, a permit may not be denied for the development on grounds that the property, or adjacent property, is to be acquired by a public agency when the application for such a development is resubmitted.

Presently, the road is two lanes wide and carries significant commuter traffic. It is hazardous to cross during morning or evening rush hours. Staff consulted with Russ Guiney, Director of the Santa Monica Mountains parks, and with Wayne Woodroof, a senior park official now charged with redeveloping the Baldwin Hills oil field into a park regarding their experience with major roads in parks. According to these officials, many State Parks, such as California's north coast parks include major highways. Roads are difficult to manage in parks. This is because roads can cut off corners of a park, cut off habitat and can be a source of noise, reducing the quality of the recreational experience. They can be hazardous, and they can be barriers. They continue that an unrelieved expanse of asphalt is not attractive in an area that is supposed to represent and interpret California's natural heritage. The Department of Parks and Recreation is developing a plan to construct a park in the Baldwin Hills which is crossed by two heavily traveled roads, La Cienega and La Brea Boulevards. As is the case with this road, there is little option to re-route the roads to a different location, because the roads are long established links in the transportation grid.

Although there are impacts, roads are necessary to provide access. Without the planned ramps, there is very limited access to this parcel. Few visitors, even in cities, go to parks on a bus. Roads can be used for parking and can separate active recreation areas and areas where human traffic should be limited. They can provide views of a park and access to natural open space. There is some evidence that the 34 feet that the applicant plans to add is more than the “one lane” and a right lane deceleration turning lane required by the Playa Vista Phase I EIR mitigation measures. Ordinarily a lane in an urban collector is ten to twelve feet wide. With an eight-foot shoulder, two lanes and a shoulder would result in a 32-foot wide addition to the street, which is what is being proposed. A narrower street could accommodate on street parking, and vegetation.

The City of Santa Monica has recently adopted an open space plan that suggests methods to mitigate the visual and noise impacts of its roads and highways. One of the prime techniques suggested is the use of extensive planting. This includes street trees, landscaped median strips; jogging trails integrated with the roads, and the installation of a “freeway forest”. Santa Monica uses another technique: it narrows travel lanes to reduce speeds and also to provide area to widen sidewalks.

The Playa Vista Drive project includes a bicycle lane. This street connects under the proposed Marina Freeway Bridge with upper Culver that accommodates a jogging/bike trail on much of its length. Playa Vista Drive also includes a traffic light, which is vital to plan ways of linking the two sides of Area C. However, that project is not yet before the Commission.

Unmitigated, the road will have impacts on the land that will be inconsistent with developing the area as a park or with maintaining the area for urban development in a way that is consistent with providing a link to nearby jogging and park uses. While there may be mitigation measures available, these measures are irrelevant if the project is not properly before the Commission. Until the dispute regarding the applicant’s right to proceed with the project, the Commission will refrain from imposing mitigation measures or changes to the project that are necessary to comply with the recreation policies of the Coastal Act. As proposed, the project is inconsistent with the use of the property as recreation. It provides no mitigating vegetation, it will interrupt views, and it provides no bicycle or jogging alternative and no support parking or any public use. As proposed, the project is inconsistent with Section 30223 of the Coastal Act.

## **G. HAZARDS**

The Coastal Act requires that the Commission examine development in terms of its effects on human safety and the safety of the development itself.

Section 30253 of the Coastal Act states:

Section 30253.

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- (3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development. ...

This development is in an area that faces a number of risks:

Flooding. Historically, this area was subject to flooding. In the mid-thirties, the US Army Corps of Engineers channelized Ballona Creek, which reduced flooding. However, all flood control channels were designed on a model of the most likely storm and on level of runoff that was expected at the time the system was designed. With the increase of impervious surfaces in Los Angeles, some flood control facilities reach their capacity more often than in the past. According to the Los Angeles County Flood Control District planners, this facility was sized to accommodate the 1934 storm which is the equivalent of a hundred year storm; the recent information about the size of Los Angeles area storms indicates that many facilities designed for that storm may be over sized.

Earthquake. Because of high ground water levels and the presence of unconsolidated sediment, the area is subject to liquefaction. The certified LUP requires calculations of very high (0.5g) levels of bedrock acceleration prior to construction due to this condition. In the first phase EIR, it is estimated that after compression and dewatering, only the top four to six inches could liquefy in the event of a local severe earthquake. While this is not a significant amount for a road, it is significant for buildings. All new buildings will require special foundations as have been installed in the newer buildings along Lincoln Boulevard. Reports by ETI (April 17,2000) to the City indicated a possibility of a fault east of and parallel to Lincoln Boulevard have caused great concern. Further studies by the project geologists, and by consultants employed by the City Legislative Analyst have indicated that there is no evidence that such a fault exists. (See Substantive File Document Numbers 16, and 19)

Methane. The City is still debating the type and amounts of methane mitigation to require in new buildings in Playa Vista. Oil and natural gas deposits release gas through the soils in

various concentrations. In Area D, some soil gas has been measured in heavy enough concentrations to require "mitigation": foundation membranes, venting devices and the like. The Department of Building and Safety has adopted procedures and standards for reviewing development proposals in areas in which concentrations of soil gas have been measured: City of Los Angeles Department of Building and Safety, Memorandum of General Distribution, #92: Methane Potential Hazard Zones, March 19, 1991. To address neighboring Area D, the City Council established a committee, chaired by the City Legislative Analyst to study whether the presence of methane in this area could or should change the City's decision to guarantee Mello/Roos road improvement bonds for the project. The bonds would be obligations of the future owners of this project. (Exhibit 13)

The most thorough study of soil gas emissions, the Jones ETI study, was done for adjacent Area D. The survey showed that concentrations in Area D were high enough to raise concerns about the safety of enclosed structures. The applicant has provided geology reports that also conclude that the road will be a safe structure. The soil gas survey prepared on behalf of the applicant for Areas A and C showed strikingly lower levels of concentrations of methane gas than the survey done for Area D. The City Department of Building and Safety has now approved that survey. (Exhibits 12, 13)

Neither the City of Los Angeles Department of Public Works nor the project geologist found that such concerns applied to a road, a structure that is not enclosed but is placed on the ground surface. As noted above, the City Department of Public Works states that the City has not experienced problems associated with roads that have been located in high soil gas areas. After careful examinations of technical reports, including the methane gas surveys, the Commission's staff geologist has found no evidence that soil gas represents a hazard to the safety of the proposed road or the travelers on it. The staff geologist reviewed the Camp Dresser and McKee 2000, "Soil gas sampling and analysis for portions of Playa Vista Areas A and C near Culver Boulevard Widening Project" report cited above and concluded:

" Although the sample spacing was too coarse to adequately delineate an anomaly, it was appropriate for the detection of an anomaly sufficient to pose a hazard to the proposed development.

The report indicates that soil methane concentrations encountered range from 0.48 to 5.43 ppmv. For reference, the concentration of methane in the atmosphere is currently about 1.75 ppmv, and the lower explosive limit of methane is 50,000 ppmv; thus the values reported in the referenced document represents essentially background levels. ... Accordingly, it appears that no significant methane seeps occur in the area investigated.

Further, methane would only be able to attain dangerous levels if it were allowed to accumulate in an enclosed space. No such enclosed space exists beneath a



roadbed. ... Therefore, it is my opinion that no explosion hazard exists in association with the widening of Culver Boulevard between Lincoln Boulevard and the Marina Expressway, nor will the construction of a ramp between Culver and Lincoln Boulevards create such a hazard." (Exhibit 14)

The Commission finds that, as proposed, the project is consistent with Section 30253 and raises no issues of hazard to life and property. Section 30253 also requires conformity with the standards of the air quality district. The air quality district does not regulate methane. The increased traffic with associated increase in the discharge of more pollutants, is a function of the Phase I development and not this road. This road itself will not contribute to air quality problems.

## **H. CULTURAL RESOURCES**

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Both the Coastal Act and the City's certified Land Use Plan require mitigation measures for development areas that contain significant cultural resources. In 1991, the Corps, the Advisory Council on Historic Preservation and the California State Historic Preservation Officer, with the approval of the Gabrielino (Tongva) tribal representatives, authorized a research and recovery project for all the identified or suspected archaeological sites in the Playa Vista project area. In 1998, the Commission approved Permit 5-98-164 that authorized preliminary exploration of the identified sites in the Coastal Zone portion of the Playa Vista Property. In approving Permit 5-98-164, the Commission found:

"The proposed Research Design also includes detailed field and laboratory methods.

The proposed Research Design conforms with the Programmatic Agreement among the Corps of Engineers, the Advisory Council on Historic Preservation, and the State Office of Historic Preservation. In addition, the Programmatic Agreement has been reviewed and signed by Vera Rocha, Tribal Chairman of the Coastal Gabrielinos, Manuel Rocha, spiritual leader, and Cindi Alvitre, Chairperson Tribal Council.

To assure that the proposed project remains sensitive to the concerns of the affected Native American groups, a Native American monitor should be present at the site during all excavation activities to monitor the work. The monitor should meet the qualifications set forth in the NAHC's guidelines. There are reasonable mitigation measures to be provided to offset impacts to archaeological resources.

According to the project's archaeologist, once a site is determined to contain significant cultural resources, a Treatment Plan (Mitigation Plan) will be prepared and reviewed by the appropriate Federal and State reviewing agencies. The Treatment Plan will outline actions to be implemented to mitigate impacts to the cultural resources found at the site(s). To determine whether the Treatment Plan is consistent with the proposed permit or if an amendment to this permit is required, the applicant shall submit a copy of the Treatment Plan to the Commission. The Executive Director, after review of the Treatment Plan, will determine if an amendment will be required. The Executive Director will require an amendment if there is significant additional excavation required or there is a significant change in area of disturbance or change in the type of excavation procedures."

In the event that grave goods are discovered, the Research Design provides that upon the discovery of human remains, the Los Angeles County Coroner's Office will be notified in compliance with state law, and they in turn will request the Native American Heritage Commission to determine the cultural affiliation.

The Commission approved the exploration but required the applicant to return for an amendment or for a new permit if recovery was necessary. Two archaeological sites identified for exploration in 5-98-164 are located within the footprints of the proposed road expansion. To avoid work in advance of preliminary exploration, the Commission requires that the approved initial exploratory work in Area C be complete, and the parties agree that no further work is necessary before the grading or excavation proposed in this project can take place.

However, the Commission also requires that if deposits or grave goods are uncovered during construction, work stop, and a treatment plan be developed that is consistent with the programmatic agreement. The Treatment Plan will outline actions to be implemented to mitigate impacts to the cultural resources found at the site(s). To determine whether the Treatment Plan is consistent with permit 5-98-164, or if an amendment to that permit is required, the applicant shall submit a copy of the Treatment Plan to the Commission. The Executive Director, after review of the Treatment Plan, will determine if an amendment will be required. The Executive Director will require an amendment if there is significant additional excavation required or there is a significant change in the area of disturbance or change in the type of excavation procedures. If remains are found, the Commission requires that the applicant carry out recovery or reburial consistent with the research design approved in the programmatic agreement and CDP 5-98-164.

The applicant reports that deposits were found in one of the areas. The applicant has prepared a treatment plan which involves significant excavation and that will require an amendment to the coastal development permit. The applicant has applied for an

amendment to 5-98-164 in order to carry out required mitigation measures. The Commission finds, therefore, that the proposed mitigation measures, if imposed as conditions of approval, would make the proposed project consistent with Section 30244.

## **I. LOCAL COASTAL PROGRAM**

Coastal Act Section 30600 states in part

(a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

On November 26, 1986, the Commission certified, with suggested modifications, the Land Use Plan portion of the City of Los Angeles, Playa Vista segment, Local Coastal Program. The certified LUP contains policies to guide the types, locations and intensity of future development in the Playa Vista area. The LUP designated most of Playa Vista for intense urban development, reserving 163 acres as wetland and additional area for other habitat purposes. The Land Use Plan portion included all roads proposed in this project although the proposed roads do not include all of the widening envisioned in the LUP, but only widening appropriate to the first stage of development. When the Commission certified the LUP for this area in 1986, this road was included as an eight-lane connector to the Marina Freeway. There is one other difference; the project does not bridge Lincoln Boulevard over Culver Boulevard but at this time retains the existing circa 1938 bridge over Lincoln.

This project involves less impact on resources and structures than envisioned in the LUP. The Commission finds that the proposed roads are in locations identified by the certified LUP, and do not prevent development as envisioned in the plan from taking place. The proposed development is consistent with the policies of the certified LUP.

However, while, as proposed, the project will not adversely impact access, it will have impacts on wetland and recreation resources. The Commission, therefore, finds that the proposed project will not be consistent with the Chapter 3 policies of the Coastal Act. Construction of this project at this time will reduce the commission's ability to consider alternative levels, kinds and configurations of development if and when it revisits the certified Land Use Plan.

## **J. CEQA**

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects, which the activity may have on the environment.

The Commission notes that the consideration of the project without all other roads that are required for Phase I mitigation results in the consideration of a partial project, as defined by Section 15378 (a). Consideration of a partial project makes it nearly impossible for the Commission to examine the full cumulative effect of the development or to adopt mitigation measures on such issues as habitat, wetlands, and public recreation that would be logical, practical and effective.

The Commission has determined that it is difficult to assess all cumulative and individual impacts of the project without having all related roads before it. However, it has determined that the proposed project in itself could have significant adverse impacts, which the applicant cannot demonstrate that it has mitigated. There appear to be additional feasible alternatives or mitigation measures available such as relocating the ramps away from the wetland, or reducing the size of the road that could substantially lessen any significant adverse impact, which the activity may have on the environment. Therefore, the proposed project is not consistent with CEQA and the policies of the Coastal Act and does not conform to CEQA.

## **APPENDIX A**

### **SUBSTANTIVE FILE DOCUMENTS**

1. City of LA CDP No. 95-03 (August 1995), extended (October 1997), currently expired;
2. State CDP No. 5-95-148 (January 1996), extended (October 1997), currently expired;
3. City of LA CDP No. 00-3B (subject appeal)
4. Easement Agreement By and Between U.S. Trust Company of California, N.A. and Maguire Thomas Partners—Playa Vista, a California Limited Partnership, August 1990.
5. Security agreement regarding Area C between Kenneth Cory, State Controller and Summa Corporation, 1984, with first through fourth amendments.
6. Chief Deputy Controller to US Trust Company of California, October 30, 1998 correspondence and attached irrevocable offer to dedicate.

7. California Department of Transportation (CALTRANS), Encroachment Permit 798-6MC-0618; Encroachment Permit Rider 700-6RW-2956, November 8, 2000
8. First Phase Project for Playa Vista, Final EIR SCH # 90010510) –EIR No 90200-Sub (c)(CUZ)(CUB)
9. Mitigated Negative Declaration--Playa Vista Plant Site (MND# 950240 (SUB) & Addendum to the EIR for the first Phase Project for Playa Vista --August 1995
10. Los Angeles County Marina La Ballona certified LUP, October 1984.
11. City of Los Angeles Local Coastal Program, Certified Land Use Plan for Playa Vista 1987 (Section C4);
12. Coastal Development Permits: 5-91-463, 5-91-463A2, 5-91-463R, 5-95-148, permit waiver 5-00-139, 5-91-463, 5-98-164, A-5-PDR 99-130/5-99-151
13. City of Los Angeles Bureau of Engineering Staff Report, No. 95-03 –August 2, 1995
14. LADOT Inter-departmental correspondence --Amendment of Initial Traffic Assessment and Mitigation Letter dated September 16, 1992 --Revised May 24, 1993.
15. City of Los Angeles City Engineer, Memorandum Public Works review of ETI report titled “Subsurface Geo-chemical Assessment of Methane Gas Occurrences” for the Playa Vista project; file 1996-092; May 10, 2000
16. Victor T. Jones, Rufus J. LeBlanc, Jr., and Patrick N. Agostino, Exploration Technologies, Inc, Subsurface Geotechnical Assessment of Methane Gas Occurrences. Playa Vista First Phase Project. April 17, 2000. [Also referred to as the Jones Report or “the ETI report.”]
17. Camp Dresser and McKee 2000, “Soil gas sampling and analysis for portions of Playa Vista Areas A and C near Culver Boulevard Widening Project” 4 page geologic letter report to Maria P Hoyer dated 27 November, 2000 and signed by A. J. Skidmore and M. Zych (RG).
18. Mark Johnsson, Senior Geologist, California Coastal Commission, Memorandum: “Culver Boulevard Widening Project and Potential Soil Methane Hazards”
19. City of Los Angeles Department of Building and Safety, Memorandum of General distribution, #92, Methane Potential Hazard Zones, March 19, 1991.
20. City of Los Angeles, Office of the Chief Legislative Analyst, City Investigation of Potential Issues of Concern for Community Facilities District No 4, Playa Vista Development Project, March, 2001
21. California Department of Fish and Game, Memorandum: Extent of Wetlands in Playa Vista, December 1991.”
22. California Coastal Commission, Memorandum: “Volume II Preliminary Working draft EIS/EIR Existing Conditions –Playa Vista March 5, 1998”
23. City of Los Angeles General Plan Palms, Mar Vista Del Rey District Plan, –Playa Vista Area C Specific Plan;
24. City of Los Angeles City Council: Conditions of Approval, Vesting Tentative Tract Map 49104 (As Revised December 8, 1995)
25. City of Los Angeles City Council: Conditions of Approval, Vesting Tentative Tract Map 52092 (December 8, 1995)

26. City of Los Angeles Tentative Tract Number 44668, Map and conditions of approval, May 4, 1987.
27. Agreement in Settlement in Litigation in the 1984 case of Friends of Ballona Wetlands, et al. v. the California Coastal Commission, et al. Case No. C525-826
28. Programmatic Agreement among the US Army Corps of Engineers, Los Angeles District, the Advisory Council on Historic Preservation and the California State Historic Preservation Officer, regarding the implementation of the Playa Vista Project, 1991.
29. Wetlands Action Network, Ballona Wetlands Land Trust and California Public Interest Research Group v. the United States Army Corps of Engineers.
30. Judge Lew, Federal District Court, June 1996, decision in Wetlands Action Network et al v United States Army Corps of Engineers.
31. Agreement Among U.S. Trust Company of California N. A, Maguire Thomas Partners – Playa Vista Area C a California limited partnership, and Maguire Thomas Partners-Playa Vista, a California limited partnership, September 28, 1990.
32. First Amendment to Agreement Among U.S. Trust Company of California N. A, Maguire Thomas Partners – Playa Vista Area C a California limited partnership, and Maguire Thomas Partners--Playa Vista, a California limited partnership, effective May 15, 1994.
33. Second Amendment to Agreement among U.S. Trust Company of California N. A, Maguire Thomas Partners – Playa Vista Area C a California limited partnership, and Maguire Thomas Partners-Playa Vista, a California limited partnership, entered into December 29, 1994.
34. Davis and Namson, Consulting Geologists, “An evaluation of the subsurface structure of the Playa Vista Project Site and Adjacent Area, Los Angeles, California”, November 16, 2000.
35. Kathleen Connell, Controller of the State of California, May 10, 2001, Letter to Sara Wan, Chair, California Coastal Commission.
36. John Dixon, Commission Senior Biologist, Memorandum ,to Pam Emerson: “Wetland Delineation at Culver Loop Ramp,” May 22, 2001